

CAUSE NO. 13-19-00237-CR

IN THE COURT OF APPEALS
FOR THE THIRTEENTH JUDICIAL DISTRICT
AT CORPUS CHRISTI, TEXAS

FILED IN
13th COURT OF APPEALS
CORPUS CHRISTI/EDINBURG, TEXAS
11/25/2019 5:12:23 PM
DORIAN E. RAMIREZ
Clerk

DALLAS SHANE CURLEE,

APPELLANT,

VS.

STATE OF TEXAS

APPELLEE.

APPELLANT'S MOTION FOR LEAVE

TO THE HONORABLE COURT OF APPEALS:

COMES NOW, APPELLANT, DALLAS SHANE CURLEE, by and through his attorney of record, Luis A. Martinez, and files this, APPELLANT'S MOTION FOR LEAVE, and requests that this Honorable Court of Appeals accept Appellant' Second Amended Brief filed on, or about, November 20, 2019, and as reasonable explanation for this motion, would show unto this Honorable Court of Appeals the following:

I.

Appellant's Brief was due on, or about, November 18, 2019. Appellant's last motion for extension was granted on November 20, 2019, but the granting of

the last motion allowed Appellant's brief to be filed by November 18, 2019. This motion for leave is filed by direction from the Clerk's correspondence of November 20, 2019, and within the time period requested.

II.

The undersigned attorney is responsible for the preparation of Appellant's briefing.

III.

The facts recited in this motion are apparent in the record, known to the Court, or are within the undersigned's personal knowledge and are true and correct.

The brief in this matter was due on November 12, 2019. However, Appellant filed his last motion for extension of time asking that the briefing deadline be extended to November 18, 2019. The undersigned submitted and electronically filed Appellant's Brief in this matter on November 18, 2019. After the brief was filed, this Honorable Court of Appeals granted the last motion for extension, on, or about, November 20, 2019.

After the brief was filed, on, or about, November 19 and November 20, 2019, the Hon. Clerk of this Court notified the undersigned that the brief was not in compliance with TEX. R. APP. P. 38.1(b). This rule prescribes that the table of contents must contain citation to the issues in the case. Appellant's counsel filed a

Second Amended Brief on November 20, 2019, amending the table of contents to refer to, and cite, the page numbers where each of the issues was argued within Appellant's Brief. The undersigned believes that the inclusion in the table of contents of those page numbers and the direct citation to the issues as they appear in the brief comply with the T.R.A.P.

The undersigned did not intentionally, or with conscious disregard to the Court of Appeals or the rules of appellate procedure, fail to file the brief in compliance with the T.R.A.P. in this matter. This compliance issue appears to have been overlooked inadvertently before the brief was originally submitted. The undersigned respectfully requests that this Honorable Court of Appeals accept Appellant's Second Amended Brief as accepted and filed and to also be considered as the "live" pleading and/or briefing in this matter. Appellant requests the same for any other previously filed briefing to any extent necessary to allow Appellant a meaningful appeal.

Finally, in no event, was the failure to file a brief not in compliance in this matter the fault of Appellant, and he should be allowed to continue his appeal and his briefing considered.

WHEREFORE, Appellant requests this Honorable Court of Appeals accept and consider Appellant's Second Amended Brief in this appeal filed on, or about, November 20, 2019, any other previously filed briefing necessary for the

continuation of a meaningful appeal, and for such other and further relief to which Appellant is justly entitled, in law, or in equity.

Respectfully submitted,

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ATTORNEY FOR APPELLANT
DALLAS SHANE CURLEE

IV.

CERTIFICATE OF SERVICE

This is to certify that a true copy of the foregoing document was served upon the Honorable Douglas K. Norman, Jackson County Special Prosecutor for the Jackson County District Attorney's Office, in the manner indicated below, on this 25th day of November, 2019, pursuant to the Texas Rules of Appellate Procedure.



Luis A. Martinez

***Via E-mail:* douglas.norman@nuecesco.com**

Mr. Douglas K. Norman

Jackson Co. Special Prosecutor

Jackson County District Atty's Office

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Edna, Texas 77957

Attorney for the State